



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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In Reply Refer To:

3809

U-77820

(UT-023)

APR 11 2005

Certified Mail 7003 1010 0005 1875 8301

Return Receipt Requested

RECEIVED
APR 12 2005
DIV. OF OIL, GAS & MINING

Mr. Jerome L. Bown
Bown Stone Products, Inc.
93 West 300 South
Manti, UT 84642

Dear Mr. Bown:

On March 21, 2005, we received a copy of your incomplete Notice of Intent to Commence Small Mining Operations" from the Utah Division of Oil, Gas and Mining (UDOGM) for mining activities proposed to be located in the Grouse Creek Mountains in the SE¼ of Section 3, T. 12 N., R. 17 W. Your notice was received by UDOGM on March 17, 2005.

In your submitted Notice, you state that your operation will consist of "bench type extraction via excavator and possibly light explosives if needed", and you propose to extract "over 4,000 ton annually." In the Bureau of Land Management's (BLM) Surface Management Regulations at 43 CFR 3809.11, for any bulk sampling in which you will remove 1,000 tons or more of presumed ore for testing, you must submit a Plan of Operations. Notices are acceptable for exploratory or testing activities and must be extended every two years. Exploration is defined as creating surface disturbance greater than casual use that includes sampling, drilling or developing surface or underground workings to evaluate the type, extent, quantity, or quality of mineral values present. Exploration does not include activities where material is extracted for commercial use or sale 43 CFR 3809.5(2). Because you're proposed mining activities are larger than those that may be considered under a Notice, we consider your proposal to be a Plan of Operations (Plan). We have assigned your Plan as case file serial number U-77820. Please refer to this serial number in all future correspondence relating to the subject Plan.

In your submitted Plan, you indicate that you are proposing to mine "quartzite" from a 5-acre site in the N½N½SE¼ of Section 3. You state that you will "transfer raw material to processing area with wheel loader; split, grade and package the product; and transport product to distributing yard (private land) on existing mine/public access roads." You also state that "raw material may also be transported in bulk to distributing yard for processing."

In your submitted Plan, you have not indicated the use or uses for the quartzite you propose to excavate. In addition, you have failed to indicate if your proposed mining activities would occur on a mining claim owned by you or by someone else. You state that the ownership of the minerals is "Private (Fee)." BLM records show that the surface and mineral estate within the

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subject lands is owned by the United States and is managed by the BLM's Salt Lake Field Office. BLM records do not show any current mining claims owned by yourself, Danny L. Bown or Matthew C. Bown, corporation officers in your company. BLM records do show that the area of your proposed mining activities may be located within the Golden Eagle #5 placer mining claim owned by Emma S. Bown, et al. (UMC 353624). Your intention may be to locate a new mining claim on the subject lands or purchase the existing claim from Ms. Bown. Before your Plan can be approved by this office, you must provide the BLM serial number of any unpatented mining claim(s) where disturbance would occur.

Quartzite is generally considered by the BLM to be a common stone that is widely found throughout the United States and may be used for a variety of purposes that other common mineral materials are suitable for. It is our opinion that you may be proposing to mine common variety mineral materials (salable minerals) under the auspices of the mining law. As described at 43 CFR 3711.1(b), "common varieties" include deposits which, although they may have value for use in trade, manufacture, the sciences, or in the mechanical or ornamental arts, do not possess a distinct, special economic value for such use over and above the normal uses of the general run of such deposits. On July 23, 1955, Public Law 167 (69 Stat. 368; 30 U.S.C. 611) was passed to prohibit further location of common variety minerals. The Act stated:

No deposit of common varieties of sand, stone, gravel, pumice, pumicite, or cinders and no deposit of petrified wood shall be deemed a valuable mineral deposit within the meaning of the mining laws of the United States so as to give effective validity to any mining claim hereafter located under such mining laws.

For minerals to be uncommon, and therefore locatable, they must meet the following criteria, as cited in McClarty v. Secretary of Interior, 408 F. 2d. 907, 908 (9th Cir. 1969):

- 1) There must be a comparison of the mineral deposit in question with other deposits of such minerals generally;
- 2) The mineral deposit in question must have a unique property;
- 3) The unique property must give the deposit a distinct and special value;
- 4) If the special value is for uses to which ordinary varieties of the mineral are put, the deposit must have some distinct and special value for such use; and
- 5) The distinct and special value must be reflected by the higher price which the material commands in the market place or by reduced cost of overhead so that the profit to the claimant would be substantially more.

We will not approve your Plan of Operations until a mineral examination report has been prepared to determine whether or not the subject quartzite is locatable or salable. Using the criteria outlined above in the McClarty decision, this investigation will examine whether, through physical evidence, the subject mining claim is supported by a valuable mineral deposit. The examination will encompass mapping geology and mineralization in relation to mining claim boundaries, sampling discovery sites as well as any other sites that will quantify and qualify the deposit. All data collected will be used to conclude in a mineral report whether the quartzite is a common variety mineral or uncommon and therefore locatable. In the event that

the quartzite is determined to be common variety, then a validity determination will be conducted and a contest complaint will be issued.

We request that you provide this office with any supporting information you may have including, but not limited to, production data, drillhole data (if available), mining cost information (including equipment, transportation and labor costs), marketing arrangements, sales receipts, sales contracts, a breakdown of products proposed to be sold and retail prices that would be received from any proposed sales for the quartzite, or any other information you may have regarding the character of the mineral deposit that you may provide for our use. Additional information may be requested at a later date.

We understand that much of the data we are requesting may be confidential. Any information you provide to BLM staff which you request to be kept confidential will be used and stored separately from other information collected and analyzed during this investigation. It will only be made available to mineral examiners assigned to this case. The confidential information you supply is not available to other BLM staff nor is it available to the public through the Freedom of Information Act.

Until the mineral examination report has been prepared, the BLM may approve a Plan for your proposed activities for operations to remove possible common variety minerals if you are willing to establish an escrow account in a form acceptable to the BLM. You must make regular payments to the escrow account for the appraised value of possible common variety minerals removed under a payment schedule approved by the BLM. For your information, the current appraised value of common variety mineral materials similar to those you wish to produce is \$12.50 per ton. The funds in the escrow account would not be disbursed to you, or to the U.S. Treasury, until a final determination of whether or not the mineral is a common variety, and therefore salable under BLM's mineral material disposal regulations at 43 CFR 3600, has been made. If the mineral examination report concludes that the minerals are common variety minerals, you may either relinquish your mining claim or BLM will initiate contest proceedings. Upon relinquishment or final departmental determination that the mining claim is null and void, you must promptly close and reclaim your operations unless you are authorized to proceed under mineral material disposal regulations at 43 CFR 3600.

Because your submitted Plan is not considered to be complete, additional information must be submitted to this office before mining-related activities may begin on the subject lands. If you choose to establish an escrow account and wish for this office to continue to process your Plan, please provide the following additional information:

1. Your taxpayer identification number;
2. A full description of your proposed operation, including a complete list of equipment, devices, or practices you propose to use during operations, including:
 - a. Accurate maps of the project area at an appropriate scale showing the location of exploration activities, drill sites, mining activities, processing facilities, waste rock and tailing disposal areas, support facilities, structures, buildings and access routes;
 - b. Preliminary or conceptual designs, cross sections, and operating plans for mining areas, processing facilities, and waste rock and tailings facilities;

- c. Water management plans;
 - d. Rock characterization plans;
 - e. Quality assurance plans;
 - f. Spill contingency plans;
 - g. A general schedule of operations from start through closure; and
 - h. Plans for all access roads, water supply pipelines (if needed), and power or utility services (if needed).
3. A reclamation plan for reclamation to meet the standards in 43 CFR 3809.420 (copy attached), with a description of the equipment, devices, or practices you propose to use including, where applicable, plans for:
- a. Drill-hole plugging;
 - b. Regrading and reshaping;
 - c. Mine reclamation, including information on the feasibility of pit backfilling that details economic, environmental and safety factors;
 - d. Riparian mitigation
 - e. Wildlife habitat rehabilitation;
 - f. Topsoil handling;
 - g. Revegetation;
 - h. Isolation and control of toxic or deleterious materials;
 - i. Removal or stabilization of buildings, structures and support facilities;
 - j. Post-closure management.
4. A proposed monitoring plan for monitoring the effect of your operations. You must design monitoring plans to meet the following objectives:
- To demonstrate compliance with the approved Plan and any other Federal or State environmental laws and regulations, to provide early detection of potential problems and to supply information that will assist in directing corrective actions should they become necessary. Examples of monitoring programs which may be necessary include surface and ground-water quality and quantity, revegetation stability and wildlife mortality.
5. An interim management plan to manage the project area during periods of temporary closure (including periods of seasonal closure) to prevent unnecessary or undue degradation. The interim management plan must include, where applicable, the following:
- a. Measures to stabilize excavations and workings;
 - b. Measures to isolate or control toxic or deleterious materials;
 - c. Provisions for the storage or removal of equipment, supplies and structures;
 - d. Measures to maintain the project area in a safe and clean condition;
 - e. Plans for monitoring site conditions during periods of non-operation; and
 - f. A schedule of anticipated periods of temporary closure during which you would implement the interim management plan, including provisions for notifying BLM of unplanned or extended temporary closures.

6. Before your Plan is approved, you must provide to this office an estimate of the cost to fully reclaim your operations as required by 43 CFR 3809.552.

Please submit the requested information within 60 days of receipt of this letter. If we do not receive any of the requested information from you, we will close the subject case file. If you have any questions, or require additional information, please feel free to contact Michael Ford of my staff at (801) 977-4360.

Sincerely,



Acting David H. Murphy
Assistant Field Manager
Non-Renewable Resources

cc: Daron R. Haddock
Division of Oil, Gas and Mining